

according to the amendment request, still will constitute an approvable program. In making this determination, OCRM will determine whether the state has satisfied the applicable program approvability criteria of subsection 306(d) of the Act.

(b) If the Assistant Administrator, as a preliminary matter, determines that the management program, if changed, would no longer constitute an approvable program, or if any of the procedural requirements of section 306(d) of the Act have not been met, the Assistant Administrator shall advise the state in writing of the reasons why the amendment request cannot be considered.

(c) If the Assistant Administrator, as a preliminary matter, determines that the management program, if changed, would still constitute an approvable program and that the procedural requirements of section 306(d) of the Act have been met, the Assistant Administrator will then determine, pursuant to the National Environmental Policy Act of 1969, as amended, whether an environmental impact statement (EIS) is required.

§ 923.83 Mediation of amendments.

(a) Section 307(h)(2) of the Act provides for mediation of “serious disagreements” between a Federal agency and a coastal State during administration of an approved management program. Accordingly mediation is available to states or federal agencies when a serious disagreement regarding a proposed amendment arises.

(b) Mediation may be requested by a Governor or head of a state agency designated pursuant to subsection 306(d)(6) or by the head of a relevant federal agency. Mediation is a voluntary process in which the Secretary of Commerce attempts to mediate between disagreeing parties over major problems. (See § 923.54).

§ 923.84 Routine program changes.

(a) Further detailing of a State’s program that is the result of implementing provisions approved as part of a State’s approved management program, that does not result in the type of action described in § 923.80(d), will be considered a routine program change.

While a routine change is not subject to the amendment procedures contained in §§ 923.81 through 923.82, it is subject to mediation provisions of § 923.83.

(b) (1) States must notify OCRM of routine program change actions in order that OCRM may review the action to ensure it does not constitute an amendment. The state notification shall identify any enforceable policies to be added to the management program, and explain why the program change will not result in the type of action described in § 923.80(d).

(i) States have the option of notifying OCRM of routine changes on a case-by-case basis, periodically throughout the year, or annually.

(ii) In determining when and how often to notify OCRM of such actions, States should be aware that Federal consistency will apply only after the notice required by paragraph (b)(4) of this section has been provided.

(2) Concurrent with notifying OCRM, States must provide notice to the general public and affected parties, including local governments, other State agencies and regional offices of relevant federal agencies of the notification given OCRM.

(i) This notice must:

(A) Describe the nature of the routine program change and identify any enforceable policies to be added to the management program if the State’s request is approved;

(B) Indicate that the State considers it to be a routine program change and has requested OCRM’s concurrence in that determination; and

(C) Indicate that any comments on whether or not the action does or does not constitute a routine program change may be submitted to OCRM within 3 weeks of the date of issuance of the notice.

(ii) Where relevant Federal agencies do not maintain regional offices, notice must be provided to the headquarters office.

(3) Within 4 weeks of receipt of notice from a State, OCRM will inform the State whether it concurs that the action constitutes a routine program change. Failure to notify a State in writing within 4 weeks of receipt of notice shall be considered concurrence.